

# **EXHIBIT 38**

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13 CONFIDENTIAL DEPOSITION OF  
14 DAVID BALTER  
15 HELD VIA WEBEX  
16 THURSDAY, JANUARY 13, 2022  
17 9:36 a.m.

REPORTED BY:  
24 Jane M. Werner, RMR, CRR  
Massachusetts CSR No. 149008  
25 JOB No. 220113DWA

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1 done by Flipside Crypto; is that correct?

2 A Correct.

3 Q Does that mean that Flipside Crypto was  
4 developing its own metrics to analyze -- to do analysis?

5 A Correct.

6 Q And then you said in the original iteration,  
7 there were investment clubs; is that correct?

8 A Correct.

9 Q Can you generally explain to us what an  
10 investment club is.

11 A An investment club was a legal entity where a  
12 number of individuals interested in learning about  
13 accessing the crypto asset ecosystem could together and  
14 jointly buy and hold and sell crypto assets.

15 Q In the current iteration of the company, who  
16 are the customers? And by "who," I don't mean  
17 specifically the names of the customers, but  
18 characterize the customer base, please.

19 A Blockchains and protocols that operate on top  
20 of blockchains.

21 Q So my understanding of a blockchain is that it  
22 is some sort of set of computer code and ledger  
23 transactions. So when you say "blockchains," you're  
24 obviously not meaning that. When you say the  
25 blockchains are your customers, what do you mean?

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1 Q So there is a nest of emails here.

2 I wanted to start with the email that is on  
3 Wednesday, August 30th, that starts, "Hi everyone." Do  
4 you see where I am? It's about a third of the way down  
5 the page.

6 A In the doc I have -- yes, I see that. Sorry,  
7 yes.

8 Q "Hi everyone, excited to kick off Flipside  
9 Crypto Club One...?"

10 A Yeah, I see that.

11 Q Flipside Crypto Club One; what is it -- or  
12 what was it?

13 A It was a group of 11 people who could come  
14 together to, as you see here, acquire and effectively  
15 store cryptocurrencies.

16 Q What was the goal of crypto Club One?

17 A To help people acquire and store  
18 cryptocurrencies.

19 Q Store for what purpose?

20 A To hold them. They were difficult to keep.  
21 So to safe-keep them.

22 Q And Flipside Crypto Club One was an investment  
23 club, correct?

24 A That is correct, yes. It was a club to learn  
25 and safe-keep cryptocurrencies; learn about and

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1 safe-keep cryptocurrencies.

2 Q And to invest in cryptocurrencies, correct?

3 MR. DIXON: Objection to form.

4 A To acquire.

5 Q Acquire and hold forever or acquire and at  
6 some point sell?

7 A Club One, as I read this and if I remember  
8 correctly, was to acquire and hold for the members of  
9 the club.

10 Q Here in the first -- in the first bullet  
11 point, it says, "There are 11 members in Club One."

12 A Uh-hum.

13 Q Where did those members come from? How did  
14 you find them?

15 A They found us. They were just people we knew.

16 Q Was it their idea to put together a club, or  
17 was it someone at Flipside Crypto?

18 A It was our idea. Well, that's actually not  
19 true. It was one of the club members -- one of the club  
20 members took me to lunch and suggested this as an idea,  
21 which we then put into motion.

22 Q Who was that club member that suggested that  
23 you put it into motion?

24 A It was Bob Howard, maybe. Bob Howard, I  
25 believe.

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1 assets on the blockchains that were sponsoring them?

2 MR. DIXON: Objection to form.

3 MR. HEIM: Objection to the form.

4 A No, that's not what I'm saying.

5 Q Then I missed your ten-year old or your  
6 five-year old DNA analogy.

7 Could you explain it?

8 A There was an understanding that  
9 cryptocurrencies were utilized -- or there was a purpose  
10 of cryptocurrencies, but few understood what they could  
11 be or why they were -- or how they could be. And these  
12 clubs were intended to help create an education  
13 environment around those potential behaviors. And

14 Marc -- Mr. Jones --

15 Q "Marc" is fine, Mr. Balter.

16 A We were all club members. We needed to learn  
17 as well.

18 Q So at the beginning of Club One, it's fair to  
19 say that the people who were investing in Club One  
20 didn't have a firm handle on how to use any of these  
21 digital assets?

22 MR. DIXON: Objection to form.

23 A I can't tell you what members of Club One all  
24 knew or didn't know.

25 Q But you're saying even you didn't necessarily

1 Under Federal Rule 30:

2 X Reading and Signing was requested.

3 In witness whereof, I have hereunto set my hand  
4 and affixed my notarial seal this 24th day of January,  
5 2022.

6 

7 Notary Public

8 CSR No. 149008

9 Commission expires 1/27/2028

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